THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.11967 of 2006

Dated: 16-06-2006

Between:

V. Jogappa.

..... PETITIONER

AND

The Joint Collector, Anantapur, and three others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.11967 of 2006

ORDER:

The Mandal Revenue Officer, Amarapuram, third respondent herein, granted house site patta to the petitioner by proceedings dated 15-06-1997. The same was challenged by the fourth respondent before the second respondent by way of appeal. The Appellate Authority by order dated 28-03-2005 set aside the proceedings of the Mandal Revenue Officer granting house site patta to the petitioner. Therefore, the petitioner filed an appeal/revision before the Joint Collector, first respondent herein, presumably under para 15 of the Board Standing Orders (BSO). He also moved an application for stay. By proceedings in Rc.No.E4/4084/2005 dated 04-07-2005 while taking the appeal on file, the request of the petitioner for grant of stay was rejected. The said order is assailed in the present writ petition.

The learned counsel for the petitioner vehemently contends that pursuant to the assignment made in the year 1997, the petitioner has already constructed a house

and if by reason of the impugned order he is evicted, the appeal itself would be rendered infructuous.

After giving anxious consideration, this Court is not able to countenance the submission in view of the facts and circumstances of the case. It is no doubt true that an Appellate Authority vested with the power to suspend/stay the order appealed cannot render the appeal infructuous by not passing interim orders, if the case so warrants. In this case, however, admittedly the petitioner filed appeal before the first respondent on 14-06-2005 and the application for stay was rejected by the first respondent about a year ago i.e., on 04-07-2005. The petitioner did not even approach the Chief Commissioner (Land Revenue) or this Court in time. He waited for one year presumably expecting the appeal to be disposed expeditiously and now alleging that there is threat of dispossession, filed the present writ petition. In such a case, the principle that a writ petition would not lie when a statutory remedy is available squarely applies. Therefore, this Court is not inclined to interfere at this stage. However, the first respondent is directed to dispose of the appeal itself within a period of two weeks from the date of receipt of a copy of this order.

The writ petition, with the above direction, is accordingly disposed of without expressing any opinion on merits of the case. No costs.

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(**V.V.S.RAO, J**)

16th June, 2006

ghn